

70
6-25-02
SC

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID B. CORNEAL and : NO. 1:CV-00-1192
SANDRA Y. CORNEAL, :

Plaintiffs : JURY TRIAL DEMANDED

v. :

RAMBO, J. —

JACKSON TOWNSHIP, *et al.*, :
Defendants

W. Thomas Wilson, Michael Yoder, Ralph Weiler, Cleck
FILED
HARRISBURG, PA
JUN 24 2002

**MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS DAVID B.
CORNEAL AND SANDRA Y. CORNEAL**

AND NOW, David B. Corneal and Sandra Y. Corneal ("the Corneals"), by and through their counsel, Eckert Seamans Cherin & Mellott, LLC, move the Court for summary judgment in their favor on all counts, and in support thereof state as follows:

1. On or about November 6, 2001, the Corneals filed an Amended Complaint in this matter, asserting claims of Violation of 42 U.S.C. § 1983, Civil Conspiracy, Intentional Interference with Performance of Contract, and Violation of Rights Guaranteed by the Constitution of the Commonwealth of Pennsylvania, based on the alleged actions of Jackson Township, W. Thomas Wilson, individually and in his official capacity as Supervisor of Jackson Township, Michael Yoder, individually and in his official capacity as Supervisor of Jackson Township, Ralph Weiler, individually and in his official capacity as Supervisor of

Jackson Township, Barry Parks, individually and in his official capacity as Sewage Enforcement Officer of Jackson Township, David Van Dommelen, individually and in his official capacity as Building Permit Officer, Ann L. Wirth, individually and in her official capacity as Secretary of Jackson Township, in relation to certain real property owned by the Corneals in Jackson Township, Huntingdon County, Pennsylvania.

2. The applicable law and undisputed facts establish that the Defendants, acting under the color of state law, have deprived the Corneals of their clearly established constitutional right and privilege to own, use, dispose and develop the Property, in violation of 42 U.S.C. § 1983.

3. The undisputed facts demonstrate clearly that the Corneals suffered substantial damage as a result of the Defendants' actions.

4. The applicable law and undisputed facts establish that the actions and conduct of the Defendants violate the Corneals' rights as guaranteed by the Constitution of the Commonwealth of Pennsylvania, including, but not limited to, Article I, §§1, 17 and 26.

5. The undisputed facts demonstrate clearly that the Corneals suffered substantial damage as a result of the Defendants' actions.

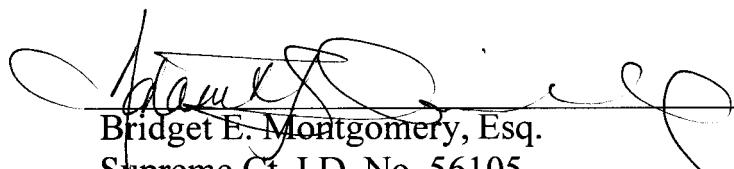
6. The applicable law and undisputed facts establish that the Defendants conspired to and acted in concert to deprive the Corneals of their constitutionally protected right to own, use, dispose and develop the Property.

7. The applicable law and undisputed facts establish that the Defendants (except Defendant Jackson Township) intentionally interfered with the Corneals' contract to sell a portion of the Property with John Hewett, Jr. and Joann Smith, and that the Corneals suffered damages as a result of the Defendants' actions.

WHEREFORE, David B. Corneal and Sandra Y. Corneal respectfully request that this Court enter an Order granting summary judgment in favor as to all counts of Plaintiffs' Amended Complaint.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC



Bridget E. Montgomery, Esq.
Supreme Ct. I.D. No. 56105
Adam M. Shienvold, Esq.
Supreme Ct. I.D. No. 81941

213 Market Street
8th Floor
Harrisburg, PA 17101
717-237-6000

Date: June 24, 2002

Attorneys for David B. Corneal and Sandra Y. Corneal

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

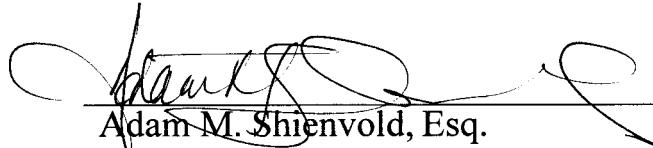
DAVID B. CORNEAL and : NO. 1:CV-00-1192
SANDRA Y. CORNEAL, :
Plaintiffs : JURY TRIAL DEMANDED
v. :
: RAMBO, J.
JACKSON TOWNSHIP, *et al.*, :
Defendants

CERTIFICATE OF NON-CONCURRENCE

I hereby certify that I sought the concurrence of counsel for Defendants in Plaintiffs' Motion for Summary Judgment, and that counsel did not concur with said motion.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC



Adam M. Shienvold, Esq.
Supreme Ct. I.D. No. 81941

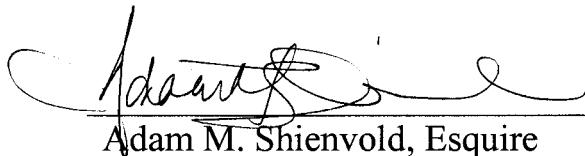
Date: June 24, 2002

Attorneys for David B. Corneal and Sandra Y.
Corneal

CERTIFICATE OF SERVICE

I, Adam M. Shienvold, Esquire, hereby certify that I am this day serving a copy of the foregoing document via First Class U.S. Mail, which service satisfies the requirements of the Federal Rules of Civil Procedure and Middle District Local Rules of Court, addressed as follows:

Anthony R. Sherr, Esquire
Mayers, Mennies & Sherr, LLP
3031 Walton Road, Building A
Suite 330, P.O. Box 1547
Blue Bell, PA 19422-0440



Adam M. Shienvold, Esquire

Date: June 24, 2002

Attorney for Plaintiffs,
David B. and Sandra Y. Corneal